

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAR 16 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES F. GAUSLING and STACEY L. MORAN

Application No. 09/708,766

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on February 21, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

A review of the application indicates that the following headings are missing from the Appeal Brief of April 18, 2005:

- 1) "Evidence appendix", as set forth in 37 CFR § 41.37(c)(1)(ix); and
- 2) "Related proceedings appendix", as set forth in 37 CFR § 41.37(c)(1)(x).

A substitute brief that is in compliance with 37 CFR § 41.37(c) is required.

On March 6, 2006, the attorney of record was contacted to fax in a supplemental Appeal Brief the above indicated headings. However it was requested by the attorney that a letter be sent out with the information that is required to complete the supplemental Appeal Brief.

Accordingly it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of April 18, 2005 defective;
- 2) for applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief, and, if necessary, vacate the Examiner's Answer mailed September 30, 2005 and issue a new Examiner's Answer; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



Dale Shaw
Program and Resource Administrator
(571) 272-9797

DMS/eld

Morrison & Foerster LLP
755 Page Mill Rd
Palo Alto, CA 94304-1018